

REMARKS

Claims 1, 2, and 4-20 are pending in the application.

Claim 1 is amended to recite an agent in terms of "consisting of" language and to include optional ingredients including one or more of a nonionic surface-active compound, an amphoteric surface-active compound, a cationic polymer, a dye, an alcohol, a dissolution promoter, a buffering substance, a perfume oil, a defoamer, a lanolin derivative, cholesterol, betain, a swelling agent, a penetration agent, a blonding agent, and a dilute organic or inorganic acid or base.

Support for a nonionic surface-active compound is found on page 8, lines 24-29, of the specification. Support for an amphoteric surface-active compound is found on page 9, lines 1-9, of the specification. Support for a cationic polymer is found on page 7, lines 6-22, of the specification. Support for a dye, an alcohol, a dissolution promoter, a buffering substance, a perfume oil, a defoamer, a lanolin derivative, cholesterol, betain, a swelling agent, and a penetration agent is found on page 9, lines 11-20, of the specification. Support for a blonding agent is found on page 10, lines 4-7, in the specification. Support for a dilute organic or inorganic acid or base is found on page 11, lines 8-12, of the specification.

Claims 4, 6-10, 13-15, and 17 are amended to depend from claim 1. Claims 8 and 10 are amended to use language consistent with the recitation of a Markush group. Support for the amendments may be found in the claims as originally filed.

No new matter is added.

Claims Objections

Claims 4, 6-10, and 13-17 are objected to for depending from claim 3, which is canceled. Applicant thanks the Examiner for directing attention to this informality. In response to the objections, the objected claims are amended to depend from claim 1, with the exception of claim 16, which remains dependent on claim 15.

Claims Rejections 35 U.S.C. 102/103 and 35 U.S.C. 103

Claims 1, 2, 4, 7-14, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as unpatentable over Dias (US 6,540,791 B1). The Examiner's rejection has been carefully considered.

Claims 5 and 6 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dias (US 6,540,791 B1). Claims 15 and 16 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dias in view of Legrand et al. (US 204/0034944 A1). The Examiner's rejections have been carefully considered.

The Examiner asserts that the compositions disclosed/taught by Dias inherently possess the property of transparency. Applicant respectfully disagrees.

In the arguments presented against the prior art rejections in the Office Action mailed 05/01/2008, Applicant pointed out that all of the Examples provided in Dias are definitely not transparent because they all contain long-chain fatty alcohol thickening agents, which form white, non-transparent compositions. Long-chain fatty alcohol thickening agents are also the preferred thickening agents, according to Dias. Consequently, at least the preferred and exemplified compositions taught by Dias are NOT transparent.

Despite the recitation that the agent is transparent, it appears that the Examiner interprets the "comprising" language recited in original claim 1 as allowing the inclusion of long-chain fatty acid thickeners. Therefore, claim 1 is amended to recite an agent in terms of "consisting of" language.

Claim 1, as amended, recites a transparent agent for oxidative treatment consisting of a defined list of thickening agents that does not include a long-chain fatty acid. Dias teaches a bleaching composition that may optionally contain a thickening agent, with long-chain fatty acids being preferred (column 15, lines 20-30). Dias does not teach or suggest that any of the possible combinations of ingredients listed therein results in a transparent composition.

Dias lists numerous bleaching compositions, oxidizing agents, buffering systems, stabilizers, surfactants, catalysts, thickeners, and conditioners, resulting in almost innumerable combinations of required and optional ingredients. Dias does not teach or suggest that any of the possible combinations result in a transparent composition or that a transparent composition is desirable.

One of ordinary skill in the art, at the time that the invention was made, would have no motivation to seek out transparent gels from the vast number of possible compositions taught by Dias because Dias does not teach or suggest that any of the reference compositions are transparent or even that transparency is a desirable property. To the contrary, all of the examples of bleaching compositions provided by Dias are definitely not transparent because they all contain long-chain fatty alcohol thickening agents, which form white, non-transparent compositions. Legrand does not teach or suggest a transparent gel.

If it is possible for the Examiner to identify a combination of ingredients that forms a transparent composition from among the vast number of possible combinations in Dias, it is only possible using the teachings of the present disclosure in hindsight.

It is the present specification and not Dias that discloses the unexpected result that a transparent gel may be achieved by a specific combination of ingredients as recited in present claim 1. Applicant reiterates that the transparent nature of the presently claimed agent is unexpected.

In summary, it would not have been obvious to one of ordinary skill in the art, at the time that the invention was made, to modify the bleaching composition of Dias to form a transparent agent for oxidative treatment as presently claimed because Dias prefers and exemplifies non-transparent compositions and does not teach or suggest the desirability of transparent bleaching compositions.

In view of the foregoing arguments and the amendment to the claims, Applicant respectfully requests that the rejections of claims 1, 2, and 4-20 under s5 U.S.C. 102(b)/103(a) and 35 U.S.C. 103(a) be withdrawn.

Conclusion

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully Submitted,


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